

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

<p>-----X</p> <p>THE RESEARCH FOUNDATION FOR THE STATE OF UNIVERSITY OF NEW YORK,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>TELLURIC LABS LLC,</p> <p style="text-align: right;">Defendant.</p> <p>-----</p> <p>TELLURIC LABS LLC,</p> <p style="text-align: right;">Counterclaim Plaintiff,</p> <p style="text-align: center;">-against-</p> <p>THE RESEARCH FOUNDATION FOR THE STATE OF UNIVERSITY OF NEW YORK,</p> <p style="text-align: right;">Counterclaim Defendant,</p> <p style="text-align: center;">and</p> <p>STATE UNIVERSITY OF NEW YORK AT STONY BROOK, PETER I. BERNSTEIN, MICHAEL FERDMAN, PETER MILDER, FARID SAMANDI, TIANCHU JI, SHENG SUN CHO,</p> <p style="text-align: right;">Third-Party Defendants.</p>	<p><b>ECF Case</b></p> <p><b>Case No. 2:21-cv-01898-JS-SIL</b></p> <p><b><u>NOTICE OF MOTION</u></b></p> <p><b>Return Date: April 7, 2023</b></p> <p><b>Hon. Joanna Seybert</b></p>
--	---

**C O U N S E L O R S :**

**MOTION BY:** L'ABBATE, BALKAN, COLAVITA & CONTINI, L.L.P.  
Attorneys for Third-Party Defendant Peter I. Bernstein  
3 Huntington Quadrangle Suite 102 S  
Melville, NY 11747

**DATE, TIME, &  
PLACE OF HEARING:** On April 7, 2023 before the Honorable Joanna Seybert at the  
United States District Court, Eastern District of New York, 100  
Federal Plaza, Central Islip, New York.

**SUPPORTING PAPERS:** (A) Mr. Bernstein's Memorandum of Law in Support of  
Motion dated February 17, 2023, and

(B) Declaration of Marian C. Rice dated February 17, 2023.

**RELIEF DEMANDED:** (A) Dismissal of the First Amended Third Party Complaint dated July 9, 2021 pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted;

(B) Dismissal of the First Amended Third Party Complaint dated July 9, 2021 pursuant to Rule 41 of the Federal Rules of Civil Procedure for failure to prosecute; and

**OTHER RELIEF:** (C) Such other and further relief as to this Court may seem just, proper and equitable in the premises.

**ANSWERING PAPERS:** Opposing Affidavits and answering Memoranda are due to be served by March 17, 2023.

DATED: Melville, New York  
February 17, 2023

Respectfully submitted,

L'ABBATE, BALKAN, COLAVITA  
& CONTINI, L.L.P.



Marian C. Rice  
Meredith D. Belkin

*Attorneys for Third-Party Defendant,  
Peter I. Bernstein  
3 Huntington Quadrangle, Suite 102S  
Melville, New York 11747  
(516) 294-8844*

To: Peter I. Bernstein  
SCULLY, SCOTT, MURPHY  
& PRESSER PC  
*Attorneys for Plaintiff/Counterclaim-Defendant  
The Research Foundation for The State University  
Of New York and Third-Party Defendants  
Michael Ferdman, Peter Milder,  
Farid Samandi, Tianchu Ji and Shengsun Cho  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
[pibernstein@ssmp.com](mailto:pibernstein@ssmp.com)*

TELLURIC LABS LLC  
*Defendant/Counterclaim Plaintiff Pro Se*  
c/o Michael Ivanciu, Esq.  
Law Offices of Michael Ivanciu  
213 NJ-35  
Red Bank, NJ 07701  
[michael@ivanciulawfirm.com](mailto:michael@ivanciulawfirm.com)

and

Telluric Labs, LLC  
157 Broad Street, Unit 201  
Red Bank, NJ 07701  
[michael@telluriclabs.com](mailto:michael@telluriclabs.com)

Nicholas Mesiti  
HESLIN ROTHENBERG FARLEY  
& MESITI  
*Attorneys for Third-Party Defendant*  
*State University of New York at Stony Brook*  
5 Columbia Circle  
Albany, New York 12203  
[nick.mesiti@hrfmlaw.com](mailto:nick.mesiti@hrfmlaw.com)  
[thomas.sica@hrfmlaw.com](mailto:thomas.sica@hrfmlaw.com)

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF SUFFOLK    )

MEHMOOD KHILJI, being duly sworn, deposes and says, that I am not a party to the action, I am over 18 years of age and reside in Nassau County, New York.

That on the 17<sup>th</sup> day of February, 2023, I served the within **NOTICE OF MOTION, DECLARATION IN SUPPORT with Exhibits 1-4** upon:

TELLURIC LABS LLC  
*Defendant/Counterclaim Plaintiff Pro Se*  
c/o Michael Ivanciu, Esq.  
Law Offices of Michael Ivanciu  
213 NJ-35  
Red Bank, NJ 07701

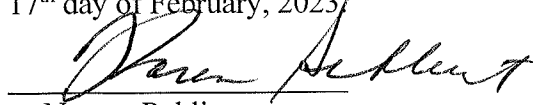
Telluric Labs, LLC  
157 Broad Street, Unit 201  
Red Bank, NJ 07701

the respective party(ies) in this action, at the above address(es) designated by said party(ies) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



MEHMOOD KHILJI

Sworn to before me this  
17<sup>th</sup> day of February, 2023/

  
Notary Public

KAREN SCHLECHT  
Notary Public, State of New York  
No. 01SC6178707  
Qualified in Nassau County  
Commission Expires December 10, 2023 **23**

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF SUFFOLK    )

KAREN SCHLECHT, being duly sworn, deposes and says, that I am not a party to the action, I am over 18 years of age and reside in Nassau County, New York.

That on the 17<sup>th</sup> day of February, 2023, I served the within **NOTICE OF MOTION, DECLARATION IN SUPPORT with Exhibits 1-4** upon:

TELLURIC LABS LLC  
*Defendant/Counterclaim Plaintiff Pro Se*  
c/o Michael Ivanciu, Esq.     -  
Law Offices of Michael Ivanciu  
213 NJ-35  
Red Bank, NJ 07701

E-mail address: michael@ivanciulawfirm.com

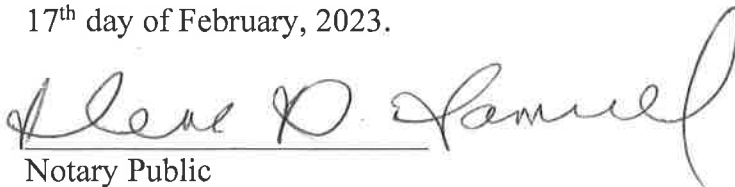
Telluric Labs, LLC             -  
157 Broad Street, Unit 201  
Red Bank, NJ 07701

E-mail address: radu@telluriclabs.com

By ELECTRONIC MAIL to the e-mail address(es) indicated above.

  
KAREN SCHLECHT

Sworn to before me this  
17<sup>th</sup> day of February, 2023.

  
Notary Public

ILENE D. SAMUEL  
Notary Public, State of New York  
No. 02SA4814149  
Qualified in Nassau County  
Commission Expires July 31, 2026